

ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BARBARA ROBERTS

Plaintiff,

v.

**TARRANT HEALTH SERVICES, LLC
formerly known as TEXAS HEALTHCARE,
PLLC**

Defendant.

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3-09CV2444-K

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

37080

PLAINTIFF'S ORIGINAL COMPLAINT AND JURY DEMAND

A. Parties

1. Plaintiff, Barbara Roberts, is an individual, who is a citizen of the State of Texas and who resides in the Northern District Of Texas.

2. Defendant, Tarrant Health Services, LLC , is a business doing business in the State of Texas, and the Northern District of Texas. Defendant was previously known as Texas Healthcare, PLLC. Defendant is an employer covered by the provisions of the Family Medical Leave Act.

B. Jurisdiction

3. This claim arises under the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et seq., which prohibits employers from interfering with an employees right to medical leave and which further prohibits discharging employees for requesting and/or asserting the rights granted by FMLA. This Court has jurisdiction under 29 U.S.C. § 2617(a) and (b).

4. Venue is proper in the Northern District of Texas under any of the three alternatives provided by 42 U.S.C. §2000e-5(3). The unlawful employment practice occurred in the Northern District of Texas; the employment records relevant to such practice are maintained and administered

in the Northern District; and, Plaintiff would have continued to work in the Northern District except for the unlawful employment practice. *Id.*

C. Statement of the Case

5. Barbara Roberts was employed by Defendant as a medical collector earning \$13.73 per hour plus benefits.

6. During her employment, Ms. Roberts was diagnosed with a medical condition that necessitated a hysterectomy. She scheduled the operation for March 30, 2009, a time at which she would be entitled to take Family Medical Leave for her own serious health condition.

7. On or about February 25, 2009, 2008, plaintiff appeared in Defendant's Human Resources Office and requested forms for Family Medical Leave certification. She made the request of Cindy Wooley at about 9:15 A.M. on that day. Less than seven hours later Plaintiff was called to the office of her supervisor, Robin Moore and summarily fired. Plaintiff never received the requested FMLA papers.

8. While in Moore's office Plaintiff was falsely accused of a specific act of misconduct. Plaintiff requested but was denied the opportunity to go to her desk to retrieve documentation that proved they she had not in fact engaged in any misconduct. Plaintiff was fired without being given the opportunity to demonstrate her innocents because defendant's actually motive for firing her was to interfere with he right to take medical leave.

D. Cause of Action

Violation of FMLA

9. Plaintiff is an employee within the meaning of the FMLA.

10. Defendant is an employer within the meaning of the FMLA; and

11. Plaintiff alleges the Defendant interfered with her rights under the FMLA by terminating her on the same day she requested paper work for leave under the Act.

12. Plaintiff alleges the Defendant interfered with her rights under the FMLA by terminating her employment before she could commence leave.

E. Prayer

13. As a proximate cause of the foregoing, Plaintiff has suffered damages and seeks the following relief:

- a. A declaration that the acts and practices complained of in this Complaint are in violation of the the FMLA;
- b. An injunction permanently restraining these violations of the FMLA;
- c. Lost past wages and benefits;
- d. Lost future wages and benefits in lieu of reinstatement;
- e. Reinstatement should the Court find that lost future wages is inappropriate;
- f. Liquidated damages for the FMLA violation;
- g. Awarding Plaintiff such other relief, legal or equitable, as may be warranted.

14. Plaintiff further seeks pre and post-judgment interests, costs of court, and attorney's fees and litigation expenses for trial and appeal.

WHEREFORE, Plaintiff requests that upon trial of this cause, that Plaintiff have judgment as authorized by law, and Plaintiff further request general relief.

JURY DEMAND

Plaintiff demands a jury with respect to all issues so triable.

Respectfully Submitted,

THORPE, HATCHER & WASHINGTON, PLLC

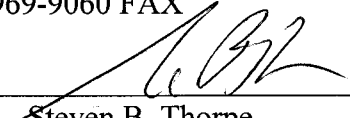
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By: _____


Steven B. Thorpe

State Bar No. 19990500 ✓

Carla S. Hatcher

State Bar No. 09219500 ✓

ATTORNEYS FOR PLAINTIFF

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

I. (a) PLAINTIFFS

BARBARA ROBERTS

DEFENDANTSTARRANT HEALTH SERVICES, LLC formerly known as
TEXAS HEALTHCARE, PLLC

DEC 23 2009

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.**(c) Attorney's (Firm Name, Address, and Telephone Number)**Steven B. Thorpe/Carla S. Hatcher
THORPE, HATCHER & WASHINGTON, L.L.P.
2929 Carlisle St., Suite 250
Dallas, TX 75204
214-969-5500

Attorneys (If Known)

3-09CV2444-K**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 20 Copyrights <input type="checkbox"/> 30 Patent <input type="checkbox"/> 40 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions.
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 61 HIA (1395ff) <input type="checkbox"/> 62 Black Lung (923) <input type="checkbox"/> 63 DIWC/DIWW (405(g)) <input type="checkbox"/> 64 SSID Title XVI <input type="checkbox"/> 65 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 70 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 71 IRS—Third Party 26 USC 7609	

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

This claim arises under the Family and Medical Leave Act (FMLA), 29 U.S.C. § 2601 et seq.

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____